

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

NETLIST, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 2:22-cv-203-JRG
	)	
MICRON TECHNOLOGY, INC.,	)	JURY TRIAL DEMANDED
MICRON SEMICONDUCTOR	)	
PRODUCTS, INC., and MICRON	)	
TECHNOLOGY TEXAS LLC,	)	
	)	
Defendants.	)	

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**DECLARATION OF THOMAS C. WERNER IN SUPPORT OF PLAINTIFF  
NETLIST, INC.’S MOTION TO COMPEL OR IN THE ALTERNATIVE TO  
MODIFY THE PROTECTIVE ORDER REGARDING INSPECTION OF  
MICRON MATERIALS**

I, Thomas C. Werner, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for Netlist in this case, a member in good standing of the State Bar of California, and admitted *pro hac vice* in this action. I have personal knowledge of the facts stated herein, and will testify competently thereto should it please the Court.
2. Attached as Exhibit 1 are true and correct excerpts of: #1, the October 25, 2022 email from Ryuk Park (Micron’s counsel) to Yanan Zhao (Netlist’s counsel); and #2, the March 16, 2023 email from Mike Rueckheim (Micron’s counsel) to me.
3. Netlist has inspected Micron’s materials for a total of five days (March 20–24, 2023). Netlist proceeded with its inspection despite imposition of Micron’s “protocol” in order to fully understand and confirm all of its implications and crystalize any dispute, rather than raising the issue with the Court in the abstract. Netlist was able to continue inspecting Micron materials after Micron refused to allow Netlist to make any use of Micron’s “custom” software because that software is necessary to view some—but not all—of the materials that Micron offered for

inspection. Netlist has never accepted the “protocol” and has always disputed that the “protocol” is appropriate.

4. On May 22, 2023, again on May 23, 2023, and again on May 26, 2023, I emailed Micron’s counsel asking that Micron arrange a conference with its “custom” software vendor to discuss licensing issues. Micron has thus far not arranged any such conference. Netlist also separately reached out to the vendor, by email and phone, but has received no response.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 31, 2023 in Los Angeles, California.

A handwritten signature in black ink, appearing to read 'T. Werner', is written above a horizontal line.

Thomas C. Werner